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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,172	03/19/2002	Masatoshi Kobayashi	112044	7545
EXAMINER				
BROCKETT, JULIE K				
ART UNIT		PAPER NUMBER		
3713		9		
DATE MAILED: 01/20/2004				

Oliff & Berridge
PO Box 19928
Alexandria, VA 22320

7590 01/20/2004

RECEIVED

JAN 21 2004

OLIFF & BERRIDGE

Please find below and/or attached an Office communication concerning this application or proceeding.

DUE DATE
FEB 20 2004

DOCKETED
By MPK on 1/21 2004
and
By SWK on 1/21 2004
Oliff & Berridge



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Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 11-14-04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

W. Shawn Morgan
Legal Instruments Examiner (LIE)

703-308-7408
Telephone No.



Image

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Masatoshi KOBAYASHI et al.

Group Art Unit: 3713

Application No.: 10/069,172

Examiner: J. Brockett

Filed: March 19, 2002

Docket No.: 112044

For: POSITION INDICATION DEVICE AND INFORMATION STORAGE MEDIUM

**APPLICANTS' CONFIRMATION OF TELEPHONE INTERVIEW AND RESPONSE
TO NOTICE OF NON-COMPLIANT AMENDMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Non-Compliant Amendment was mailed January 20, 2004 (copy enclosed). The Notice is in error for the following reasons.

The Notice of Non-Compliant Amendment alleges that a Preliminary Amendment filed on January 14, 2004 is non-compliant for failing to provide a complete listing of all claims. Applicants did not file a Preliminary Amendment on January 14, 2004.

On October 14, 2003, Examiner Brockett contacted Applicants' representative and indicated that she did not have a copy of Applicants' claims or drawings in the Patent Office file for the above-referenced application. Therefore, on October 14, 2003, Applicants' representative forwarded a copy of the claims, drawings, and abstract, all timely filed on September 22, 2002, with a date-stamped filing receipt to Examiner Brockett for her consideration.

Subsequently, on January 7, 2004, Applicants' representative forwarded a copy of a September 22, 2002 Preliminary Amendment filed concurrently with the previously

forwarded claims, drawings, and abstract to Examiner Brockett to ensure that Examiner Brockett had the current version of the pending claims. The September 22, 2002 Preliminary Amendment was fully compliant with the Patent Office rules in effect on September 22, 2002.

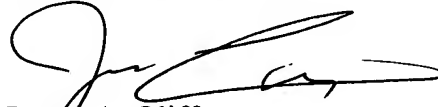
Then, by request of the Patent Office, on January 14, 2004 Applicants' representative forwarded a copy of the September 22, 2002 Preliminary Amendment to LaShawn Morgan, Legal Instruments Examiner. Apparently, the copy forwarded to Ms. Morgan on January 14, 2004 was mistakenly treated as a new filing. Because the copy forwarded on January 14, 2004 was filed in 2002, it only listed amended claim 24, rather than all claims. As a result, the Patent Office issued the January 20, 2004 Notice of Non-Compliant Amendment.

On February 18, 2004, Applicants' representative telephoned Examiner Brockett to explain the situation. During the telephone interview, Examiner Brockett indicated that the September 22, 2002 Preliminary Amendment had been entered. As such, there was no reason to have the allegedly non-compliant January 14, 2004 copy of the Preliminary Amendment entered or considered.

Therefore, the Notice of Non-Compliant Amendment is in error because the fully compliant September 22, 2002 Preliminary Amendment was properly entered and the January 14, 2004 copy of the September 22, 2002 Preliminary Amendment was not intended to be treated as a separate filing. As a result, Applicants need not supply a corrected section of the Amendment in response to the Notice of Non-Compliant Amendment.

Applicants earnestly solicit favorable consideration of claims 1-24. Should the Examiner have any questions or comments, Applicants invite the Examiner to contact the undersigned below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Jesse O. Collier
Registration No. 53,839

JAO:JOC/tea

Attachments:

Notice of Non-Compliant Amendment

Date: February 19, 2004

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<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
